

REMARKS

This amendment is submitted in response to the non-final Office Action¹ of August 15, 2005. Claims 1-72 were presented for examination. Claims 68 and 69 are allowed. Claims 10, 13, 17-20, 22, 32, 35, 39-42, 44, 54, 57, 61-64 and 66 are objected to. Claims 1-9, 12, 14-16, 21, 23-31, 34, 36-38, 43, 45-53, 56, 58-60, 65-67 and 70-72 are rejected. Applicants acknowledge, with appreciation, the Examiner's finding of allowed and allowable subject matter in the instant application.

Claims 1, 23, 45 and 67-72 are independent claims.

Claims 1, 6, 11, 16, 17, 19, 22, 23, 25, 28, 33, 38, 39, 41, 44, 45, 47, 50, 55, 60, 61, 63 and 66 are amended. These amendments are made solely to remove the Examiner's objections to the allowable claims or to conform dependencies to non-canceled claims and do not change the scope or breadth of these claims. No new matter is added.

Claims 2-5, 13, 24, 26-27, 35, 46, 48-49, 57, 67 and 70-72 are canceled without prejudice to, or disclaimer of, the subject matter of these claims.

Claims 1, 6-12, 14-23, 25, 28-34, 36-45, 47, 50-56, 58-66 and 68-69 are pending.

¹ The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicants may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicants do not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicants deem allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicants that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

On page 2 of the Office Action, it advises that the disclosure is objected to because it does not include patent numbers and issued dates of incorporated by reference patent applications appearing on page 5 of the specification. Those patent applications are still pending and, therefore, those patent numbers and issued dates are not available at this time for inclusion into the specification.

On page 2 of the Office Action, it states that in claim 8, line 3, "note" is apparently misspelled. "Note" is spelled properly; perhaps the Examiner is thinking that "note" should have been "node", but in this instance the word "note" is intended and is correct. Please refer to the specification, for example, starting on page 24, line 22 for explanation and support.

Claims 23-66 and 70-71 are rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter as being an intangible media. Although Applicants do not necessarily agree, to advance the prosecution of this application Applicants have amended the specification pursuant to a recommendation made by the Examiner in a telephone conversation with the undersigned on November 11, 2005. Specifically, the specification has been amended to delete the language: "computer program may be fixed in any form in a signal that is transmittable to a computer" which appeared on page 43 of the specification. In addition, independent claim 23 has been amended to recite a "*tangible* computer usable medium" (emphasis added). In view of these amendments and the cancellation of claims 70-71, it is respectfully submitted that this rejection should be withdrawn.

Claims 45-66 and 70-72 are rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter as being an abstract idea

that can be done by hand. Although Applicants do not necessarily agree, to advance the prosecution of this application, Applicants have amended independent claim 45 to indicate that the recited file replication method is "executed by a computer" pursuant to language suggested by the Examiner in the above-referenced telephone conversation. The Examiner indicated that this amendment language would overcome this rejection of independent claim 45 (and its dependencies). Since claims 70-72 have been canceled, it is respectfully submitted that this rejection of claims 45-66 and 70-72 should be withdrawn.

Claims 1-9, 11-12, 14-16, 21, 23-31, 33-34, 36-38, 43, 45-53, 55-56, 58-60, 65, 67 and 70-72 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tanaka et al. (U.S. Patent No. 6,663,538; hereinafter "Tanaka"). Applicants respectfully disagree that Tanaka anticipates these claims and that this reference is an effective basis upon which to reject all of these claims under this statute. However, in view of the finding of allowable and allowed subject matter, Applicants have chosen to amend the claims in this instant reply in a manner solely to obtain an early allowance of the allowable and allowed claims.

Claims 13, 17, 19, 35, 39, 41, 57, 61 and 63 are included in the set of allowable claims, and the amended independent claims herein each incorporates one of these allowable claims.

I. THE SYSTEM CLAIMS

Applicants have amended independent claim 1 to include the limitations of its dependent claims 2, 3, 4, 5 and allowable claim 13. Thus claim 1 is allowable. Claims 6,

7, 8, 9, 10, 11, 12, 14, 15, 16, 21 and 22 are dependent from claim 1, directly or indirectly, and are allowable because of their dependence from an allowable base claim.

Applicants have amended allowable dependent claim 17 into independent form, to include the limitations of claims 1, 2, 3, 4 and 5. Thus claim 17 is allowable. Claim 18 is dependent from amended independent claim 17 and is allowable because of its dependence from an allowable base claim.

Applicants have amended allowable dependent claim 19 into independent form, to include the limitations of claims 1, 2, 3, 4 and 5. Thus claim 19 is allowable. Claim 20 is dependent from amended independent claim 19 and is allowable because of its dependence from an allowable base claim.

II. THE COMPUTER PROGRAM PRODUCT CLAIMS

Applicants have amended independent claim 23 to include the limitations of its dependent claims 24, 26, 27 and allowable claim 35. Thus claim 23 is allowable. Claims 25, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 43 and 44 are dependent from claim 23, directly or indirectly, and are allowable because of their dependence from an allowable base claim.

Applicants have amended allowable dependent claim 39 into independent form, to include the limitations of claims 23, 24, 26, 27 and 39. Thus claim 39 is allowable. Claim 40 is dependent from amended independent claim 39 and is allowable because of its dependence from an allowable base claim.

Applicants have amended allowable dependent claim 41 into independent form, to include the limitations of claims 23, 24, 26, 27 and 41. Thus claim 41 is allowable.

Claim 42 is dependent from amended independent claim 41 and is allowable because of its dependence from an allowable base claim.

III. THE METHOD CLAIMS

Applicants have amended independent claim 45 to include the limitations of its dependent claims 46, 48, 49 and allowable claim 57. Thus claim 45 is allowable. Claims 47, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 65, and 66 are dependent from claim 45, directly or indirectly, and are allowable because of their dependence from an allowable base claim.

Applicants have amended allowable dependent claim 61 into independent form, to include the limitations of claims 45, 46, 48, 49 and 61. Thus claim 61 is allowable. Claim 62 is dependent from amended independent claim 61 and is allowable because of its dependence from an allowable base claim.

Applicants have amended allowable dependent claim 63 into independent form, to include the limitations of claims 45, 46, 48, 49 and 63. Thus claim 63 is allowable. Claim 64 is dependent from amended independent claim 63 and is allowable because of its dependence from an allowable base claim.

Independent claims 68 and 69 are allowed in their current form (see Office Action, page 5).

Applicants expressly reserve their rights to file a continuation application on any or all canceled claims and to pursue breadth of coverage consistent with the claims as originally filed. Applicants do not acquiesce in the instant 35 U.S.C. § 102(e) rejection because Tanaka does not anticipate any of Applicants' claims. Applicants have made these amendments solely to advance the prosecution of this application.

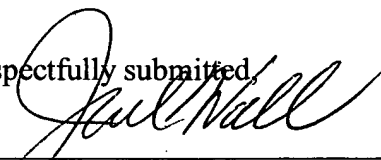
CONCLUSION

Reconsideration and allowance are respectfully requested. In view of the above, all pending claims, namely: claims 1, 6-12, 14-23, 25, 28-34, 36-45, 47, 50-56, 58-66 and 68-69 are allowable and should be promptly passed to issue.

To the extent that an extension of time may be needed in order to enter this amendment in this case, please consider this response as including a petition under 37 C.F.R. § 1.136 for such extension of time. Please charge any fee for such petition or any other fee or cost that may be incurred by way of this amendment to Patent Office deposit account number 05-0889.

If the Examiner feels that a telephone conversation may serve to advance the prosecution of this application, he is invited to telephone Applicants' undersigned representative at the telephone number provided below.

Respectfully submitted,



JOEL WALL
Registration No. 25,648

TELEPHONE:
JOEL WALL ESQ.
508-625-1323
November 14, 2005